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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,641	11/28/2001	Satoshi Hanada	Q67358	7730

7590 04/14/2004

SUGHRUE MION, PLLC  
2100 Pennsylvania Avenue, NW  
Washington, DC 20037-3213

EXAMINER
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KUHNS, ALLAN R

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/994,641

Applicant(s)

HANADA ET AL.

Examiner

Allan Kuhns

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

1. Applicant's election without traverse of Group II, claims 4-6 in Paper No. 020304 is acknowledged.

2. Claims 1-3 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 020304.

3. Please include the article "a" (or some other clarification like substituting "branching" or "branches" for "branch") with "polyolefin having long chain branch" and "polyolefin having long chain branch is polypropylene having long chain branch" in claims 4-6 in order to remove idiomatic English.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eslinger et al. as set forth in the rejection of claim 4 in the previous Office action in view of Wood et al. (5,928,745). Wood et al. teach, from column 4, line 44 to column 5, line 65, that it is common or conventional to use polyolefin having weight average molecular weight greater than 100,000 in forming sheet or film materials. It would have been obvious to one of ordinary skill in the art to use polyolefinic material having a weight average molecular weight within the claimed range in the practice of the process of Eslinger et al. since Wood et al. indicate that the use of polyolefin within such a

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molecular weight range is desirable. Wood et al. also teach the use of polypropylene, as in claim 5, at column 5, lines 1-6.

6.Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7.Applicants' arguments filed February 3, 2004 have been fully considered but they are not persuasive. Applicants argue that there is no suggestion in Eslinger to use recycled material for the non-foamed layers as described in their claimed invention and that Eslinger teaches away from using recycled material for the non-foamed layers because of the potential for blemishing. The examiner disagrees, as set forth in the previous Office action, as Eslinger only states that recycled plastic "is generally not used" to avoid blemishes on the article's surface. One of ordinary skill in the art would have gathered from that statement that in situations where the appearance of the surface of the article is of little or no importance, it would have been obvious to employ recycled material to produce the non-foamed material.

Applicants further submit that in the presently claimed invention, recycled material is used to form a small unevenness in thickness in the non-foamed layer that prevents the foam break in creating the foam layer and produces a foamed sheet with excellent surface appearance. This is not commensurate in scope with the claims.

Applicants also argue that the recycled material in Eslinger does not experience at least two melting and solidifying cycles. The examiner disagrees since one of ordinary skill in the art would have recognized that the recycled material would

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encounter one such cycle during initial melt processing (prior to its becoming recycled material) and another such cycle during the instantly claimed process, which would involve melt processing.

Applicants' arguments concerning molecular weight are considered to be moot by the examiner based on the revised ground of rejection introduced in this Office action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allan Kuhns whose telephone number is (571) 272-1202. The examiner can normally be reached on Monday to Thursday from 7:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Allan R. Kuhns*  
ALLAN R. KUHN  
PRIMARY EXAMINER AU 1732  
4-9-04